

A nonprofit organization, created to construct and maintain a building for the exclusive purpose of housing and serving exempt member agencies of a community chest, may be exempt under section 501(c)(3) of the Code; Revenue Ruling 58-547 distinguished.

Advice has been requested whether a nonprofit organization formed and operated in the manner described below qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The organization was created to construct and maintain a building to house member agencies of a community chest, thereby facilitating coordination among the agencies and making more efficient use of the available voluntary labor force. Membership in the organization is limited to the board of directors of the community chest. The agencies occupying the building are exempt from Federal income tax under section 501(c)(3) of the Code. The building's construction expenses were financed by contributions from the general public and by the issuance of noninterest bearing obligations to other charitable organizations.

The organization's building was erected on city land that is the subject of a long-term lease under which the organization pays only a nominal rental and is committed to use the premises for the exclusive purpose of housing and otherwise serving the community chest agencies.

Office space in the building is leased to member agencies at a rate that makes the organization's rental income approximately equal to its total annual operating costs without any allowance for depreciation. This results in a rental rate that is substantially less than commercial rates for comparable facilities. The building also contains a large central meeting room that is separately maintained for the free use of the lessees and other interested community chest agencies under the general supervision and control of the organization's executive director.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable purposes.

The organization has demonstrated that its operations will materially aid its various tenants and other users of its facilities in the performance of their respective charitable functions. All tenants receive a direct financial benefit in that the rental charges made are substantially less than the general commercial rate for comparable facilities. Moreover, the organization's provision for housing a number of member agencies at one convention central place enables such agencies to make frequent use of volunteer labor on an efficient basis and promotes their common interests by facilitating the effective co-ordination of their interrelated operations and services.

The performance of a particular activity that is not inherently charitable may nonetheless further a charitable purpose. The overall result in any given case is dependent on why and how that activity is actually being conducted. See Rev. Rul. 67-4, C.B. 1967-1, 121. Because of the close connection between this organization and the charitable functions of the tenant-organizations, the rental of the organization's facilities at rates substantially below their fair rental value, and the operation by the organization with the intention of realizing an amount sufficient only to meet annual operating costs, the organization is dedicated to carrying out the charitable endeavors of the community chest and its member agencies. Accordingly, it is held that the organization is exempt from Federal income tax under section 501(c)(3) of the Code.

This Revenue Ruling is distinguishable from Revenue Ruling 58-547, C.B. 1958-2, 275, which holds that a lease, the parties to which are both exempt under section 501(c)(3) of the Code and which otherwise constitutes a business lease within the meaning of section 514 of the Code, will not be considered as substantially related to the charitable purpose of the lessor solely because the lessee is likewise an exempt organization. By contrast, the instant organization leases space in a non-commercial manner at substantially below the 'going-rate,' and there is a close relationship between its purposes and functions and those of the tenant organizations.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Exemption Application, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the Income Tax Regulations.